

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. Action No.: 1:22-CR-13
(Judge Kleeh)

HEATHER JOE PAUGH,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
CONCERNING PLEA OF GUILTY IN FELONY CASE [ECF NO. 35]

On April 26, 2022, the Defendant, Heather Joe Paugh ("Paugh"), appeared before United States Magistrate Judge Michael J. Aloi and moved for permission to enter a plea of **GUILTY** to Count Two of the Indictment, charging her with Unlawful Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(3) and 924(a)(2).

This Court referred Paugh's plea of guilty to the magistrate judge for the purpose of administering the allocution, pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted. Paugh stated that she understood that the magistrate judge is not a United States District Judge, and Paugh consented to pleading before the magistrate judge.

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Based upon Paugh's statements during the plea hearing and the Government's proffer establishing that an independent factual basis for the plea existed, the magistrate judge found that Paugh was competent to enter a plea, that the plea was freely and voluntarily given, that she understood the charges against her and the consequences of her plea, and that a factual basis existed for the tendered plea. The magistrate judge issued a *Report and Recommendation Concerning Plea of Guilty in Felony Case* ("R&R") [ECF No. 35] finding a factual basis for the plea and recommending that this Court accept Paugh's plea of guilty to Count Two of the Indictment.

The magistrate judge **remanded** Paugh to the custody of the United States Marshals Service. On May 3, 2022, the Court entered an order **releasing** Paugh on May 6, 2022, to long-term treatment at Northern Appalachian Adult & Teen Challenge [ECF No. 44] on the terms and conditions of release previously imposed by the Court in this case.

The magistrate judge also directed the parties to file any written objections to the R&R within fourteen (14) days after service of the R&R. He further advised that failure to file objections would result in a waiver of the right to appeal from a

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judgment of this Court based on the R&R. Neither Paugh nor the Government filed objections to the R&R.

Accordingly, this Court **ADOPTS** the magistrate judge's R&R [ECF No. 35], provisionally **ACCEPTS** Paugh's guilty plea, and **ADJUDGES** her **GUILTY** of the crime charged in Count Two of the Indictment.

Pursuant to Fed. R. Crim. P. 11(c)(3) and U.S.S.G. § 6B1.1(c), the Court **DEFERS** acceptance of the proposed plea agreement until it has received and reviewed the presentence investigation report prepared in this matter.

Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** the following:

1. The Probation Officer shall undertake a presentence investigation of Paugh, and prepare a presentence investigation report for the Court;

2. The Government and Paugh shall each provide their narrative descriptions of the offense to the Probation Officer by **May 25, 2022**;

3. The presentence investigation report shall be disclosed to Paugh, her counsel, and the Government on or before **July 11, 2022**; however, the Probation Officer shall not disclose any

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sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e) (3);

4. Counsel may file written objections to the presentence investigation report on or before **July 25, 2022**;

5. Responses to objections to the presentence investigation report shall be filed on or before **August 1, 2022**; and

6. The Office of Probation shall submit the presentence investigation report with addendum to the Court on or before **August 15, 2022**.

Upon release or removal from in-patient treatment, counsel for Paugh is **DIRECTED** to notify the Court that a sentencing hearing should be scheduled.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record and all appropriate agencies.

DATED: May 18, 2022

Tom S. Klee

THOMAS S. KLEEH, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA